

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/661,153	HOWARD III, MATTHEW A.	
	<b>Examiner</b>	Art Unit	
	Catherine S. Williams	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to After Final Amendment 6/13/05.
2.  The allowed claim(s) is/are 8-10, 12, 14, 15, 41-44, 52, 53, 56, 57, 59, 62-64, 67-73, 77-83, 85, 86, 88, 89, 91, 92 and 94-98.
3.  The drawings filed on 13 September 2000 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All      b)  Some\*      c)  None      of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Joanna Mason on 7/6/05.

The application has been amended as follows:

In the claims:

Claim 75 has been cancelled.

*Allowable Subject Matter*

Claims 8-10,12,14-15,41-44,52-53,56-57,59,62-64,67-73,77-83,85-86,88-89,91-92 and 94-98 are allowed.

The following is an examiner's statement of reasons for allowance: the allowability of the independent claims is based on the combination of all the limitations within the respective claim.

Regarding claim 8, the prior art fails to teach a drug infusion assembly that includes, *inter alia*, a drug reservoir and pump that are capable of pumping a drug at a variable rate that can be controlled percutaneously.

Regarding claim 53, the prior art fails to teach a drug infusion device that includes, *inter alia*, at least one electrode configured to sense electrical activity of the hypothalamus where the pump is configured to communicate with the at least one electrode and supply the drug to at least

Art Unit: 3763

one of the plurality of microinfusion catheters in accordance with the electrical activity of the hypothalamus.

Regarding the allowability of claims 63 and 88, see reasons for allowance in the Final Office Action dated 1/13/05.

Regarding claim 71, the prior art fails to teach a drug infusion device that includes, *inter alia*, a magnet configured to aid in the stereotactic placement of the macrocatheter, where the magnet comprises a magnetic collar disposed on the macrocatheter proximate to an end thereof.

Regarding claim 80, the prior art fails to teach the combination of a plurality of non-coaxially side-by-side microinfusion catheters where at least one has a plurality of drug delivery ports, a drug delivery manifold functionally coupled to each of the catheters, a drug supply line functionally coupled to the manifold, and a drug reservoir and pump functionally coupled to the line and including a recharge valve.

Regarding claim 82, the prior art fails to teach the combination of a plurality of non-coaxially side-by-side microinfusion catheters where at least one has a plurality of independently controlled drug delivery ports, a drug delivery manifold functionally coupled to each of the catheters, a drug supply line functionally coupled to the manifold, and a drug reservoir and pump functionally coupled to the line.

Regarding claim 83, the prior art fails to teach a drug infusion assembly that includes, *inter alia*, at least one microinfusion catheter configured to independently deliver a drug from each of the plurality of drug delivery ports based on information gathered from the monitoring electrodes.

Regarding the allowability of claim 85, see reasons for allowance in the Final Office Action dated 1/13/05.

Regarding claim 86, the prior art fails to teach a drug infusion assembly that includes, *inter alia*, a pump configured to communicate with at least one electrode and supply the drug to at least one of the plurality of microinfusion catheters in accordance with the electrical activity of the hypothalamus.

Regarding claim 89, the prior art fails to teach the combination of a macrocatheter including a magnet and a plurality of non-coaxially side-by-side microinfusion catheters where at least one is movable and includes a plurality of individually controllable drug delivery ports.

Regarding claim 92, the prior art fails to teach a drug infusion device that includes, *inter alia*, a pump that can be controlled percutaneously.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine S. Williams whose telephone number is 571-272-4970. The examiner can normally be reached on Monday - Friday.

Art Unit: 3763

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas D. Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Catherine S. Williams  
July 6, 2005



NICHOLAS D. LUCCHESI  
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TECHNOLOGY CENTER 3700